

AMENDED IN ASSEMBLY SEPTEMBER 6, 2001

AMENDED IN SENATE JULY 20, 2001

AMENDED IN SENATE JULY 19, 2001

AMENDED IN SENATE JULY 16, 2001

CALIFORNIA LEGISLATURE—2001–02 SECOND EXTRAORDINARY SESSION

SENATE BILL

No. 18

Introduced by Senator Burton

May 17, 2001

An act to amend *Sections 1731 and 1768 of the Public Utilities Code*, and to amend Sections 80010, 80100, 80110, 80122, 80130, 80132, 80134, and 80200 of, and to add Section 80131 to, the Water Code, relating to electric power, making an appropriation therefor, and declaring the urgency therefor, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 18, as amended, Burton. Department of Water Resources: electricity: bond financing order.

(1) Existing law authorizes the Department of Water Resources to contract with an electrical corporation to transmit or provide for the transmission of, and distribute the power and provide billing, collection, and other related services, as the agent of the department, on terms and conditions that reasonably compensate the electrical corporation for its services, and requires the commission, at the request of the department, to order such actions. Existing law authorizes the department to issue revenue bonds for certain purposes not to exceed a certain amount, containing specified terms and conditions, upon

[2] Corrected 9-12-01—See last page.

authorization by written determination of the department and with the approval of the Director of Finance and the Treasurer. Existing law permits the department to have the Public Utilities Commission issue finance orders to recover revenue requirements, and delegates to the department the authority to determine if the revenue requirements are just and reasonable. Existing law requires the department, before the issuance of bonds, to establish a mechanism to ensure that the bonds will be sold at investment grade ratings and repaid on a timely basis from pledged revenues. Certain of these provisions enacted by Senate Bill 31 of the 2001–02 First Extraordinary Session become effective on August 13, 2001.

This bill would require the bond repayment mechanism to include a DWR Bond Set-Aside, as defined, fixed by an irrevocable Public Utilities Commission bond financing order, sufficient to pay the costs of issuing, servicing, and retiring the bonds, *including any costs related to credit enhancement or interest rate protection*, and to be adjusted as required, applicable to all electric power delivered in this state by an electrical corporation subject to the jurisdiction of the commission. The bill would require the total of DWR Bond Set-Asides to be designated as a separate rate component of a retail end user’s bill for electrical services and would require any DWR Bond Set-Aside to consist of and be derived from a portion of the rate levels in effect on ~~August 31~~ *September 30, 2001*. The bill would establish the DWR Bond Repayment Fund, to be continuously appropriated to the department and available for the purpose of the payment of ~~principal, premium, if any, and interest on bonds and associated issuance costs~~ *the costs of issuing, servicing, and retiring the bonds in accordance with their terms, together with the interest thereon, including any costs related to credit enhancement or interest rate protection*, thereby making an appropriation. The bill would require the revenues from the DWR Bond Set-Aside to be deposited in the DWR Bond Repayment Fund.

(2) Existing law requires the Department of Water Resources to establish and revise certain revenue requirements relating to the purchase and sale of electric power and to advise the commission as the department determines to be appropriate.

This bill would define the term “revenue requirements.” The bill would entitle the commission to any information necessary to review the revenue requirements of the department ~~and~~ *would require the commission to provide an analysis of the revenue requirements comparable to that it would provide for a revenue requirement*



submitted by a public utility, and would require the commission to conduct at least one public hearing and provide an opportunity for public comment on the revenue requirements prior to their adoption.

(3) This bill would ~~revise certain of the provisions enacted by SB 31 of the 2001–02 First Extraordinary Session and~~ make other conforming changes.

(4) A violation of an order of the Public Utilities Commission is a crime. The bill by requiring specified financing orders and related orders by the commission would change the definition of a crime and thus impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) The bill would declare it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares that this act*
2 *does both of the following:*

3 (a) *Ensures the ability of the Department of Water Resources to*
4 *manage its obligations and maximize customer options by*
5 *establishing the DWR Bond Set-Aside to secure the issuance of*
6 *bonds by the department.*

7 (b) *Ensures the ability of the State of California to protect and*
8 *enhance its credit.*

9 SEC. 2. *Section 1731 of the Public Utilities Code is amended*
10 *to read:*

11 1731. (a) The commission shall set an effective date when
12 issuing an order or decision. The commission may set the effective
13 date of an order or decision prior to the date of issuance of the order
14 or decision.

15 (b) After any order or decision has been made by the
16 commission, any party to the action or proceeding, or any
17 stockholder or bondholder or other party pecuniarily interested in

1 the public utility affected, may apply for a rehearing in respect to
2 any matters determined in the action or proceeding and specified
3 in the application for rehearing. The commission may grant and
4 hold a rehearing on those matters, if in its judgment sufficient
5 reason is made to appear. No cause of action arising out of any
6 order or decision of the commission shall accrue in any court to any
7 corporation or person unless the corporation or person has filed an
8 application to the commission for a rehearing within 30 days after
9 the date of issuance or within 10 days after the date of issuance in
10 the case of an order issued pursuant to either Article 5
11 (commencing with Section 816) or Article 6 (commencing with
12 Section 851) of Chapter 4 relating to security transactions and the
13 transfer or encumbrance of utility property. For purposes of this
14 article, “date of issuance” means the date when the commission
15 mails the order or decision to the parties to the action or
16 proceeding.

17 (c) No cause of action arising out of any order or decision of the
18 commission construing, applying, or implementing ~~the provisions~~
19 ~~of Chapter 4 of the Statutes of 2001-02 First Extraordinary~~
20 ~~Session Division 27 (commencing with Section 80000) of the~~
21 ~~Water Code)~~ shall accrue in any court to any corporation or person
22 unless the corporation or person has filed an application to the
23 commission for a rehearing within 10 days after the date of
24 issuance of the order or decision. The commission shall issue its
25 decision and order on rehearing within 20 days after the filing of
26 that application.

27 SEC. 3. *Section 1768 of the Public Utilities Code is amended*
28 *to read:*

29 1768. The following procedures shall apply to judicial review
30 of an order or decision of the commission interpreting,
31 implementing, or applying ~~the provisions of Chapter 4 of the~~
32 ~~Statutes of 2001-02 First Extraordinary Session Division 27~~
33 ~~(commencing with Section 80000) of the Water Code:~~

34 (a) Within 30 days after the commission issues its order or
35 decision denying the application for a rehearing, or, if the
36 application is granted, then within 30 days after the commission
37 issues its decision on rehearing, any aggrieved party may petition
38 for a writ of review in the California Supreme Court for the
39 purpose of determining the lawfulness of the original order or
40 decision or of the order or decision on rehearing. If the writ issues,

1 it shall be made returnable at a time and place specified by court
2 order and shall direct the commission to certify its record in the
3 case to the court within the time specified. No order of the
4 commission interpreting, implementing, or applying the
5 provisions of Chapter 4 of the Statutes of 2001–02 First
6 Extraordinary Session shall be subject to review in the courts of
7 appeal.

8 (b) The petition for review shall be served upon the executive
9 director of the commission either personally or by service at the
10 office of the commission.

11 (c) For purposes of this section, the issuance of a decision or the
12 granting of an application shall be construed to have occurred on
13 the date when the commission mails the decision or grant to the
14 parties to the action or proceeding.

15 (d) All actions and proceedings under this section and all
16 actions or proceedings to which the commission or the people of
17 the State of California are parties in which any question arises
18 under this section, or under or concerning any order or decision of
19 the commission under this section, shall be preferred over, and
20 shall be heard and determined in preference to, all other civil
21 business except election causes, irrespective of position on the
22 calendar.

23 (e) The provisions of this article apply to actions under this
24 section to the extent that those provisions are not in conflict with
25 this section.

26 *SEC. 4.* Section 80010 of the Water Code is amended to read:
27 80010. As used in this division, unless the context otherwise
28 requires, the following terms have the following meanings:

29 (a) “Administrative costs” means those reasonable expenses,
30 including any consulting, legal, technical, or engineering services,
31 incurred by the department in administering this division. The
32 administrative costs of the department incurred in administering
33 this division may only be paid for from appropriations by the
34 Legislature. The department may not incur administrative costs in
35 excess of those appropriations.

36 (b) “Bonds” means bonds, notes, or other evidences of
37 indebtedness issued solely for the purposes of paying the cost of
38 electric power and transmission, scheduling, and other related
39 expenses incurred by the department on and after the effective date
40 of this division, or to reimburse expenditures from the fund for

1 those purposes, *including any interim financing or borrowing*;
2 repaying to the General Fund any advances made to the
3 department from appropriations made to the fund pursuant hereto
4 or hereafter for purposes of this division, any advances made to the
5 department from the Water Resources Electric Power Fund, and
6 General Fund moneys expended by the department pursuant to the
7 Governor's Emergency Proclamation dated January 17, 2001;
8 establishing or maintaining reserves in connection with the bonds;
9 costs of issuance of bonds or incidental to their payment or
10 security; capitalized interest; or to renew or refund any bonds.

11 (c) "Commission" means the Public Utilities Commission.

12 (d) "DWR Bond Set-Aside" means a rate to recover a separate
13 dedicated revenue stream fixed by a commission bond financing
14 order pursuant to Section 80131. The total of all DWR Bond
15 Set-Asides shall be designated as a separate rate component of a
16 retail end user's bill for electrical services.

17 (e) "Electrical corporation" has the same meaning as that term
18 is defined in Section 218 of the Public Utilities Code.

19 (f) "Fund" means the Department of Water Resources Electric
20 Power Fund established by Section 80200.

21 (g) "Local publicly owned electric utility" includes the entities
22 defined in subdivision (d) of Section 9604 of the Public Utilities
23 Code and publicly owned utilities that provide electricity.

24 (h) "Power" means electric power and energy, including, but
25 not limited to, capacity and output, or any of them.

26 (i) "Public utility" has the same meaning as that term is
27 defined in Section 216 of the Public Utilities Code.

28 (j) (1) "Revenue requirements" means only the revenue
29 necessary to pay the actual costs for any of the following:

30 (A) Purchasing power.

31 (B) Contracting for the purchase of power.

32 (C) Administrative costs.

33 (D) Purchasing natural gas as required pursuant to a contract
34 for the purchase of power.

35 (E) Using transmission or distribution facilities prior to the
36 delivery or utilization of purchased power, including scheduling
37 and other related expenses.

38 (F) Amounts to enable the department to comply with Section
39 80134.

(2) “Revenue requirements” does not include costs incurred under conservation, load management, or other programs implemented by the commission, the department, or any other entity, except those costs incurred pursuant to the “20/20 Energy Rebate Program” established pursuant to the Governor’s Executive Order D-30-01 for the summer 2001, and any other contracts for load management or reduction entered into by the department prior to June 1, 2001.

~~SEC. 2.~~

SEC. 5. Section 80100 of the Water Code is amended to read: 80100. Upon those terms, limitations, and conditions as it prescribes, the department may contract with any person, local publicly owned electric utility, or other entity for the purchase of power on such terms and for such periods as the department determines and at such prices the department deems appropriate taking into account all of the following:

(a) The intent of the program described in this division is to achieve an overall portfolio of contracts for energy resulting in reliable service at the lowest possible price per kilowatthour.

(b) The need to have contract supplies to fit each aspect of the overall energy load profile.

(c) The desire to secure as much low-cost power as possible under contract.

(d) The duration and timing of contracts made available from sellers.

(e) The length of time sellers of electricity offer to sell such electricity.

(f) The desire to secure as much firm and nonfirm renewable energy as possible. Prior to commencement of the program described in this division, the department shall assess the need for power in the state in consultation with the Public Utilities Commission and local publicly owned electric utilities and electrical corporations in the state and such other entities in the state as the department determines are appropriate. The department may also enter into options or forward contracts with respect to the foregoing, and contract with any person, local publicly owned electric utility, or other entity for transmission and scheduling.

~~SEC. 3.~~

SEC. 6. Section 80110 of the Water Code is amended to read:

1 80110. The department shall retain title to all power sold by
2 it to the retail end use customers. The department shall be entitled
3 to recover, at the times necessary, its revenue requirements, and
4 shall advise the commission as the department determines to be
5 appropriate. For purposes of this division and except as otherwise
6 provided in this section, the Public Utilities Commission's
7 authority as set forth in Section 451 of the Public Utilities Code
8 shall apply, except any just and reasonable review under Section
9 451 shall be conducted and determined by the department.
10 However, the commission shall be entitled to any information
11 necessary to review the revenue requirements of the department,
12 *shall provide an analysis of the revenue requirements comparable*
13 *to the analysis it would provide for a revenue requirement*
14 *submitted by a public utility*, and shall conduct at least one public
15 hearing with an opportunity for public comment on the revenue
16 requirements prior to their adoption. The commission may enter
17 into an agreement with the department with respect to charges
18 under Section 451 for purposes of this division, and that agreement
19 shall have the force and effect of a financing order adopted in
20 accordance with Article 5.5 (commencing with Section 840) of
21 Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, as
22 determined by the commission. In no case shall the commission
23 increase the electricity charges in effect on the date that the act that
24 adds this section becomes effective for residential customers for
25 existing baseline quantities or usage by those customers of up to
26 130 percent of existing baseline quantities, until such time as the
27 department has recovered the costs of power it has procured for the
28 electrical corporation's retail end use customers as provided in this
29 division. After the passage of such period of time after the effective
30 date of this section as shall be determined by the commission, the
31 right of retail end use customers pursuant to Article 6
32 (commencing with Section 360) of Chapter 2.3 of Part 1 of
33 Division 1 of the Public Utilities Code to acquire service from
34 other providers shall be suspended until the department no longer
35 supplies power hereunder. The department shall have the same
36 rights with respect to the payment by retail end use customers for
37 power sold by the department as do providers of power to such
38 customers.

39 ~~SEC. 4.~~

40 SEC. 7. Section 80122 of the Water Code is amended to read:

80122. The department may do any of the following as may be, in the determination of the department, necessary for the purposes of this division:

(a) Hire and appoint employees as required, at salary levels determined by the director to be competitive to attract and retain persons with the necessary expertise and skills. Prior to hiring or appointing an employee at a salary in excess of a salary approved by the Department of Personnel Administration, the director shall submit the proposed salary to the Director of Finance who shall submit it to the Legislature in accordance with Section 27.00 of the annual Budget Act. No excess salary authorized under this section may be paid on or after January 1, 2003. The excess portion of a salary authorized under this section may not be considered salary in the calculation of final compensation for purposes of benefits under the Public Employees' Retirement System.

(b) Engage the services of private parties to render professional and technical assistance and advice and other services in carrying out the purposes of this division, if funds for any of these administrative costs have been appropriated by the Legislature.

(c) Contract for the services of other public agencies.

(d) The State Personnel Board and the Department of Personnel Administration shall assist the department in expediting the hiring of personnel necessary and desirable for the timely and successful implementation and administration of the department's duties and responsibilities pursuant to this division.

~~SEC. 5.—~~

SEC. 8. Section 80130 of the Water Code is amended to read:

80130. (a) The department may incur indebtedness and issue bonds as evidence thereof, provided that bonds may not be issued in an amount the debt service on which, to the extent payable from the ~~fund~~ *DWR Repayment Fund*, is estimated by the department to exceed the amounts estimated to be available in the ~~fund~~ *DWR Repayment Fund* for their payment. The department may authorize the issuance of bonds (excluding notes issued in anticipation of the issuance of bonds and retired from the proceeds of those bonds) in an aggregate amount up to the greater of thirteen billion four hundred twenty-three million dollars (\$13,423,000,000) ~~or the amount calculated by multiplying by a factor of four the annual revenues generated by the California Procurement Adjustment, as determined by the commission~~

~~pursuant to Section 360.5 of the Public Utilities Code; provided, such aggregate amount shall not exceed thirteen billion four hundred twenty-three million dollars (\$13,423,000,000). Nothing in this section shall prohibit the department from issuing bonds prior to the effective date of this bill based upon the authorization granted to the department by the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session. Refunding of bonds to obtain a lower interest rate shall may not be included in the calculation of the aggregate amount.~~

(b) In addition, before the issuance of bonds in a public offering, the department shall establish a mechanism to ensure that the bonds will be sold at investment grade ratings and repaid on a timely basis from pledged revenues. ~~This~~ The mechanism ~~may~~ shall include, but is not limited to, ~~an agreement between the department and the commission as described in Section 80110. a DWR Bond Set-Aside.~~

SEC. 9. Section 80131 is added to the Water Code, to read:

80131. (a) Whenever the department proposes to issue bonds pursuant to this article, the department shall apply to the Public Utilities Commission for a bond financing order establishing a DWR Bond Set-Aside.

(b) The commission shall, within 30 days from the date of the application, issue a bond financing order establishing a DWR Bond Set-Aside that shall be applicable to all electric power delivered in this state by electrical corporations that are subject to the jurisdiction of the commission and whose customers are deemed to have purchased power from the department pursuant to Section 80104. The revenues from the DWR Bond Set-Aside shall be dedicated to the payment of the obligations of the bonds and no person or entity, including, the electrical corporation delivering energy, shall have any right, title, interest, or claim to any portion of the DWR Bond Set-Aside, except the department or the trustee designated pursuant to Section 80132. To the extent any moneys are received by an electrical corporation pursuant to this section in the process of collection, and pending their payment to the DWR Bond Repayment Fund established in subdivision (i), they shall be segregated by the electrical corporation on terms and conditions established by the department and shall be held in trust for the benefit of the department.

(c) The amount of the DWR Bond Set-Aside shall be sufficient to pay the costs of issuing, servicing, and retiring the bonds in accordance with their terms, *including any costs related to credit enhancement or interest rate protection*, as applied for by the department. The bond financing order shall include a provision for payment of the DWR Bond Set-Aside to the department for deposit in the DWR Bond Repayment Fund within five days of the date of receipt by the electrical corporation.

(d) Notwithstanding Sections 455.5 or 1708 of the Public Utilities Code, or any other provision of law, a bond financing order shall be irrevocable and the commission does not have authority to determine, either by rescinding, altering, or amending the bond financing order, or otherwise, that the DWR Bond Set-Aside is unjust or unreasonable, or to in any way reduce or impair the recovery of the DWR Bond Set-Aside, either directly or indirectly, nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement, or termination until the costs of issuing, servicing, and retiring the bonds, together with the interest thereon *including any costs related to credit enhancement or interest rate protection*, are fully met and discharged. Except as otherwise provided in this division, the State of California does hereby pledge and agree with the owners of and holders of bonds issued pursuant to this article that the state shall neither limit nor alter the DWR Bond Set-Aside, bond financing orders, or any rights thereunder until the costs of issuing, servicing, and retiring the bonds, together with the interest thereon *including any costs related to credit enhancement or interest rate protection*, are fully met and discharged, provided that nothing contained in this section precludes the limitation or alteration if adequate provision is made by law for the protection of the owners ~~and holders~~, *holders, credit enhancers, or other entities having an interest in the DWR Bond Set-Aside*. The department as agent for the state is authorized to include this pledge and undertaking for the state in these obligations.

(e) Notwithstanding any other provision of this section, the commission shall approve the adjustments to the DWR Bond Set-Aside as it determines to be necessary to ensure timely recovery of all revenues required by the pertinent bond financing order, and the costs associated with the provision, recovery, financing, or refinancing thereof, including the costs of issuing,

1 servicing, and retiring the bonds, *including any costs related to*
2 *credit enhancement or interest rate protection*, contemplated by
3 the bond financing order.

4 (f) (1) Bond financing orders issued under this article do not
5 constitute a debt or liability of the state or of any political
6 subdivision thereof, other than the department, and do not
7 constitute a pledge of the full faith and credit of the state or any of
8 its political subdivisions, but are payable solely from the funds
9 provided therefor under this article and shall be consistent with
10 Sections 1 and 18 of Article XVI of the California Constitution.
11 This subdivision shall in no way preclude bond guarantees or
12 enhancements pursuant to this article. All the bonds issued under
13 this article shall contain on the face thereof a statement to the
14 following effect:

15 “Neither the full faith and credit nor the taxing power of the
16 State of California is pledged to the payment of the principal of,
17 or interest on, this bond.”

18 (2) The issuance of bonds under this article may not directly,
19 indirectly, or contingently obligate the state or any political
20 subdivision thereof to levy or to pledge any form of taxation
21 ~~therefore~~ *therefor* or to make any appropriation for their payment.

22 (g) The commission shall establish procedures for the
23 expeditious processing of applications for bond financing orders,
24 including the approval or disapproval thereof within 30 days of *the*
25 date of the department’s making such an application. The
26 commission shall provide in any bond financing order for a
27 procedure for the expeditious approval by the commission of
28 periodic adjustments to the DWR Bond Set-Aside that are the
29 subject of the pertinent bond financing order, as required by
30 subdivision (e). The procedures shall require the commission to
31 determine not less frequently than annually whether adjustments
32 to the DWR Bond Set-Aside are required, and for the adjustments,
33 if required, to be approved within 30 days of the date of completion
34 of the review.

35 (h) Any DWR Bond Set-Aside shall consist of and be derived
36 from a portion of the rate levels in effect on ~~August 31~~ *September*
37 *30*, 2001, and may not result in an increase in those rate levels. This
38 subdivision does not affect any legal authority the commission has
39 for changing rate levels for any other purpose not related to the
40 DWR Bond Set-Aside.

(i) There is hereby established in the State Treasury the DWR Bond Repayment Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated, without regard to fiscal year, to the department, and shall be available solely for the purpose of the payment of principal, and premium, if any, and interest on all bonds issued under this division and associated issuance costs.

~~SEC. 6.~~ *the costs of issuing, servicing, and retiring the bonds in accordance with their terms, together with the interest thereon, including any costs related to credit enhancement or interest rate protection.*

SEC. 10. Section 80132 of the Water Code is amended to read:

80132. (a) Bonds may be issued by the department upon authorization by written determination of the director of the department with the approval of the Director of Finance and the State Treasurer. The Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations of its written determination. The bonds shall be sold at such prices and in such manner, and on such terms and conditions, as shall be specified in such determination, and such determination may contain or authorize any other provision, condition, or limitation not inconsistent herewith and such provisions as may be deemed reasonable and proper for the security of the bondholders. Bonds may mature at such time or times, and bear interest at such rate or rates, which may be fixed or variable and be determined by reference to an index or such other method, as shall be specified in such determination. Neither the person executing the determination to issue bonds nor any person executing bonds shall be personally liable therefor or be subject to any personal liability or accountability by reason of the issuance thereof.

(b) In the discretion of the department, any bonds may be secured by a trust agreement by and between the department and a corporate trustee, which may be any trust company or bank having trust powers within or without the state, or the State Treasurer. Notwithstanding any other provision of law, the State Treasurer shall not be deemed to have a conflict of interest by reason of acting as such trustee. The department may enter into

1 such contracts or arrangements as it shall deem to be necessary or
2 appropriate for the issuance and further security of the bonds.

3 (c) Bonds shall be legal investments for all trust funds, the
4 funds of all insurance companies, banks both commercial and
5 savings, trust companies, executors, administrators, trustees, and
6 other fiduciaries, for state school funds, pension funds, and, for
7 any funds that may be invested in county, school, or municipal
8 bonds.

9 (d) Notwithstanding that bonds may be payable from a special
10 fund, they shall be deemed to be negotiable instruments for all
11 purposes.

12 (e) Any and all bonds, their transfer and the income therefrom
13 shall at all times be free from taxation of every kind by the state
14 and by all political subdivisions of the state.

15 (f) Bonds shall not be deemed to constitute a debt or liability of
16 the state or of any political subdivision thereof, other than the
17 department, or a pledge of the full faith and credit of the state or
18 of any such political subdivision but shall be payable solely from
19 the funds herein provided for. All bonds shall contain a statement
20 to the following effect:

21 “Neither the full faith and credit nor the taxing power of the
22 State of California is pledged to the payment of the principal of or
23 interest on this bond.”

24 The issuance of bonds shall not directly or indirectly or
25 contingently obligate the state or any political subdivision thereof
26 to levy or to pledge any form of taxation whatever therefor or to
27 make any appropriation for their payment.

28 (g) The department may pledge or assign the revenues from a
29 DWR Bond Set-Aside, and rights to receive the same, and moneys
30 on deposit in the DWR Bond Repayment Fund and income or
31 revenue derived from the investment thereof, as security for the
32 repayment of the bonds *and any credit enhancement or interest*
33 *rate protection issued in connection with the bonds*. It is the
34 intention of the Legislature that any pledge of moneys, revenues,
35 or property made by the department shall be valid and binding
36 from the time when the pledge is made; that the DWR Bond
37 Set-Aside so pledged and moneys derived therefrom thereafter
38 collected from retail end use customers, or paid directly or
39 indirectly to or for the account of the department, is hereby made,
40 and shall immediately be, subject to the lien of such pledge without

any physical delivery thereof or further act; that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the department irrespective of whether such parties have notice thereof, and that no resolution or instrument by which such pledge or lien created pursuant to this subdivision is expressed, confirmed, or approved need be filed or recorded in order to perfect such pledge or lien. The provisions hereof shall in all respects govern the creation, perfection, priority, and enforcement of any lien created hereby or hereunder.

~~SEC. 7.~~

SEC. 11. Section 80134 of the Water Code is amended to read:

80134. (a) The department shall, and in any obligation entered into pursuant to this division may covenant to, at least annually, and more frequently as required, establish and revise revenue requirements sufficient, together with any moneys on deposit in the fund, to provide all of the following:

(1) The amounts necessary to pay the principal of and premium, if any, and interest on all bonds as and when the same shall become due if there are insufficient funds in the DWR Bond Repayment Fund.

(2) The amounts necessary to pay for power purchased by it and to deliver that power to purchasers as specified in subparagraphs (A), (B), (D) and (E) of paragraph (1) of subdivision (j) of Section 80010, in the amounts and at the times the same shall become due.

(3) Reserves in such amount as may be determined by the department from time to time to be necessary or desirable.

(4) The pooled money investment rate on funds advanced for electric power purchases prior to the receipt of payment for those purchases by the purchasing entity.

(5) Repayment to the General Fund of appropriations made to the fund pursuant hereto or hereafter for purposes of this division, appropriations made to the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001.

(6) The administrative costs of the department incurred in administering this division, if an amount for those costs has been appropriated by the Legislature.

(b) The department shall notify the commission of its revenue requirements pursuant to Section 80110.

~~SEC. 8.~~

SEC. 12. Section 80200 of the Water Code is amended to read:

80200. (a) There is hereby established in the State Treasury the Department of Water Resources Electric Power Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated, without regard to fiscal year, to the department, and shall be available for the purposes of this division. It is the intent of the Legislature that this fund be a continuation of the fund created in Chapter 3 of the ~~Statutes of 2001 (SB 7 of the First 2001-02 Extraordinary Session)~~. *Statutes of the 2001-02 First Extraordinary Session.*

(b) All revenues payable to the department under this division, including the net proceeds of bonds, shall be deposited in the fund, other than the revenues from the DWR Bond Set-Aside, which shall be deposited into the DWR Bond Repayment Fund. Notwithstanding any other provision of law, interest accruing on money in the fund shall remain in the fund and shall be used for the purposes of this division. Payments from the fund may be made only for the purposes authorized by this division, including, but not limited to, payments for any of the following:

(1) The cost of electric power and transmission, scheduling, and other related expenses incurred by the department.

(2) The pooled money investment rate on funds advanced for electric power purchases prior to the receipt of payment for those purchases by the purchasing entity.

(3) Payment of any bonds or of any other contractual obligations authorized by this division.

(4) *Payment of any interim loan or indebtedness incurred pursuant to Chapter 4 of the Statutes of the 2001-02 First Extraordinary Session.*

(5) Repayment to the General Fund of appropriations made to the fund pursuant hereto or hereafter for purposes of this division, appropriations made to the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001. That repayment shall be made as soon as practicable.

(c) Except as provided in subdivision (b) of Section 5 of the statute adding this section, the administrative costs of the department incurred in administering this division shall be provided in the annual Budget Act, if an amount for those costs has been appropriated by the Legislature.

(d) Obligations authorized by this division shall be payable solely from the fund. Neither the full faith and credit nor the taxing power of the state are or may be pledged for any payment under any obligation authorized by this division.

(e) While any obligations of the department incurred under this division remain outstanding and not fully performed or discharged, the rights, powers, duties, and existence of the department and the commission shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of or parties to such obligations. The department may include this pledge and undertaking of the state in the department's obligations.

~~SEC. 9.~~

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SEC. 10. If this act becomes effective on or before the effective date of Chapter 9 of the 2001-02 First Extraordinary Session, then Sections 80132 and 80200 of the Water Code, as amended by Chapter 9 of the 2001-02 First Extraordinary Session shall not be operative.~~

~~If this act becomes effective after the effective date of Chapter 9 of the 2001-02 First Extraordinary Session, then the amendments made to Sections 80132 and 80200 of the Water Code by this act shall prevail on the effective date of this act, pursuant to Section 9605 of the Government Code.~~

~~SEC. 11.~~

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety

1 within the meaning of Article IV of the Constitution and shall go
2 into immediate effect. The facts constituting the necessity are:
3 In order to assure the timely issuance of revenue bonds by the
4 Department of Water Resources to provide for the repayment of
5 funds advanced from the General Fund to pay for the purchase of
6 electric power needed to protect the safety, health, and well-being
7 of the people of California, it is necessary that this act take effect
8 immediately.

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10 CORRECTIONS

11 Text — Page 11.

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